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Technical assistance and capacity-building

Note verbale dated 12 August 2015 from the Permanent Mission of Cambodia to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

The Permanent Mission of the Kingdom of Cambodia to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference to the note verbale of the Office of the High Commissioner of 5 August 2015, has the honour to enclose herewith the comments of the Royal Government of Cambodia on the report of the Special Rapporteur on the situation of human rights in Cambodia, Prof. Rhona Smith, submitted to the Human Rights Council at its thirtieth session (A/HRC/30/58) (see annex).

In this connection, the Permanent Mission wishes to request the Office of the High Commissioner to kindly have the above-mentioned comments* published in full as a government letter to be circulated to the Human Rights Council at its thirtieth session.

* Reproduced as received, in the language of submission only.

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Annex to the note verbale dated 12 August 2015 from the Permanent Mission of Cambodia to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

[English only]

Comments on the draft report of Ms. Rhona Smith

1. Ratification

With regard to the ratification of covenants, conventions and optional protocol of international treaties, the Kingdom of Cambodia has ratified the followings:

- Convention on the Rights of Persons with Disabilities (CRPD) on 7 August 2012
- Optional protocols of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) on 13 October 2010
- International Convention on the Protection of Enforced Disappearance (CED) on 27 June 2013
- Other optional protocols Cambodia being considered by Cambodia include:
    - Two optional protocols of the International Covenant on Civil and Political Rights (ICCPR)
    - Optional protocol of the International Covenant on Economic, Social and Cultural (ICESC) Rights
    - Optional protocol of the Convention on the Rights of Persons with Disabilities (CRPD).

Cambodian Human Rights Committee and Ministry of Foreign Affairs and International Cooperation have been organizing consultative meetings with relevant institutions to further look into this matter in order to make suggestions to the royal government to decide.

The Royal Government of Cambodia has been implementing the content of the Convention on the Rights of Persons with Disabilities in the national law - Law on the Protection and Promotion of the Rights of Persons with Disabilities. The law promotes the rights and dignity of persons with disabilities to be respected, reduces discrimination against persons with disabilities, provides equal opportunities to persons with disability in livelihood generation, employment, income generation, access to education, health and social services, involvement in political activities, social development and accessibility for persons with disabilities. More especially, national strategic development plan, policies and programs of all ministries, institutions and authority at all levels also included issues of disabilities. This law also encourages and determines the obligations of state institutions, private sector and NGOs in obtaining and using the potentials of persons with disabilities and encourages all development partners to mainstream and include persons with disability into their development projects. Meanwhile, the royal government has released a number of regulations to promote persons with disabilities, which include:

- Sub-decree No. 216 ANKr.BK on the preparation and functioning of the Disability Action Council dated 02 May 2013
- Sub-decree No. 108 ANKr.BK on the determination of quota and formality of recruiting persons with disabilities to work dated 30 August 2010

- Sub-decree No. 118 ANKr.BK on the preparation and functioning of People with Disabilities Foundation dated 13 September 2010.

2. Land rights

The Royal Government of Cambodia has made great efforts in setting up and adopting numerous policies, laws and regulations in line with the existing international instruments in land sector, in order to respond to the needs of the people and society as a whole, especially to ensure that the basic rights of the people shall be protected under the Constitution of the Kingdom of Cambodia.

The main objective is aimed at addressing poverty, ensuring equitable, transparent, sustainable and effective land management with fair distribution and use of land.

The RGC has implemented the policy and regulatory framework currently in force to address all dimension of land issues associated with political, economic, social, environmental and cultural aspects along with wide participation and consultation from all relevant stakeholders, (including international organizations, civil society and people at the community levels).

Since 2001, the Royal Government has made great efforts in adopting the policy and regulatory framework within the context of the Land Law of 2001, and under the existing Civil Code and the Code of Civil Procedure to ensure the safety of land occupation, especially legal ownership of the people, based on the principles of human rights (especially in the context of the economic, social and cultural rights) consistent with free market and democracy as enshrined in the Constitution and relevant laws.

In response to this commitment, a great number of schemes have been set for implementation with technical and financial supports from all relevant stakeholders (national and local institutions including development partners, civil society and local community people). This transparent and open approach of cooperation and partnership promote a systematic and non-systematic land registration would ensure that property rights, and land rights (and/or housing rights), be guaranteed by the Constitution (Art. 44) and the Land Law of 2001.

The Constitution and Law provide guarantees with proper and fair compensation for the implementation of all development projects which may affect the legal rights of the people. The Law on Expropriation promulgated on 26 February 2010 provides a policy with a detailed guidance on the implementation in a transparent, participatory and equitable manner to ensure that proper and fair compensation be implemented based on legal procedure.

With regard to illegal land occupants, the Royal Government of Cambodia, however, continues to implement the law in a flexible manner by adhering to the basic principles of the United Nations Instrument on Housing Rights Program, especially for those groups of vulnerable and poor households that have been living and occupying state land illegally as stated in the Land Law and other regulations (such as the release of: Circular No. numbered 02 on Illegal Occupation of State Land dated 26 February 2007, and Circular No. numbered 03 on the Solution to Temporary Structure on State Land Illegally encroached in the Capital, Municipalities and Town Areas dated 31 May 2010).

The national policy on housing has been drafted; and it will be brought for further discussion and will be finalized in the future. The main objective of this guideline policy is to address and resolve the plights of the poor and most vulnerable groups. Those policies include: permission to stay temporarily, provision of possession rights, symbolic rental fee of the resettlement (as the state provides a replacement with a new and suitable location), development on the spot or compensation in monetary form or in-kind support at an

appropriate extent, etc.;. All measures taken to address any solution requires the participation from the people at the community level as well as from relevant NGOs based on the respect for the principle of social and economic benefit of the people along with the assessment of environmental impact.

The eviction of people from their place of residence is not a policy of the Government. The instrument on housing rights and eviction of the United Nations also places emphasis on the issue of eviction. Forced eviction should only be applied in accordance with the United Nations instruments/documents. In this sense, the Royal Government temporarily recognizes the people's rights to illegal land occupation until they find a legal place of residence. The Royal Government of Cambodia abides by the UN relevant instruments and legal principles and guidelines, taking into account the concern, interest, safety, security of the people as well as environmental protection aspect.

In case of resettlement, it is true that the Royal Government has to set priority in developing a number of necessary infrastructures on the relocation site. If the relocation site is not properly developed, (and if it only happens temporarily), the Royal Government continues to provide financial and employment supports along with provision of physical infrastructure, etc. In the end, the people in settlement will enjoy the benefits and their rights of compensation as well as their rights of possessing a new relocation in a fair, beneficial and sustainable manner.

The historical campaign in the implementation of "Old Policy, New Action" on land sector which was introduced under the wise initiative of Samdech Akka Moha Sena Padei Techo Hun Sen, Prime Minister of the Kingdom of Cambodia, has been launched in the efforts to carry out the measurement program for distribution of land to the citizen of more than 380.000 titles out of the 640.000 plots announced and more than 680.000 plots already measured, equivalent to almost 1.1 million hectares. According to the plan set forth, the Royal Government will continue its effort to register the land nationwide till 2018 to achieve 70% of the total plot across the country which ranges between 6 to 7 million plots. The result achieved so far has shown that, shortage of land, landlessness, and ambiguity in land occupation have practically been and are being addressed in parts and resolved successively with the aim at bringing more socioeconomic growth in rural areas in the coming years.

3. Law on non-governmental organizations and associations

The Royal Government of Cambodia has clearly determined that civil societies have a role as an effective partner of the Royal Government in the construction of the country. In this view, the Royal Government has encouraged in all forms to associations and non-governmental organizations which are acting to serve citizens across the country, and welcomed for the participation of associations and non-governmental organizations in the restoration process and economic-social affair development, including protection and promotion of democracy and respect for human rights. In this spirit, the Royal government has to push the establishment and the implementation of the Law on Non-Governmental Organizations and Associations. The purposes of the drafted Law is to define the procedures and conditions of creation, registration, and memorandum of understanding which enable all level of authorities to facilitate the activities of local, as well as international associations and non-governmental organizations in the Royal of Cambodia. The provision of rights for Khmer citizens to create associations or nongovernmental organizations is an incentive for cooperation between the Royal Government and associations and non-governmental organizations. In accordance with the purpose and the necessary above, the Royal Government has drafted the Law on Non-Governmental Organizations and Associations, and put for public discussion many times and also organized national workshops three times with participatory comments from representatives

of concerned institutions, national and international civil societies organizations, embassy representatives, European Union representative and representative of the OHCHR in Cambodia before summited to the office of the council of ministers. This drafted Law was enacted by the plenary session of the office the council of ministers on June 05, 2015, and was enacted by the National Assembly on July 13, 2015.